

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

Hearing Date: January 12, 2016
Hearing Time: 9:15am
Hearing Place: Albany, NY

In Re:

GEORGE T. SMITH and
KELLY A. SMITH

Debtors.

Chapter 13
Case No. 14-10018

**MOTION FOR AN ORDER MODIFYING DEBTORS' CHAPTER 13 PLAN
PURSUANT TO 11 U.S.C. § 1329**

George T. Smith and Kelly A. Smith, the debtors herein (hereinafter the "Debtors"), by and through their attorneys, Tully Rinckey, PLLC (Michael L. Boyle, of counsel) respectfully represent the following in support of their motion for an order pursuant to 11 U.S.C. §1329 modifying their previously-confirmed Chapter 13 Plan (the "Motion"):

1. The Debtors filed a voluntary petition for relief under Chapter 13 of Title 11 of the United States Code (hereinafter the "Bankruptcy Code") on January 7, 2014.
2. Andrea E. Celli is the duly appointed and acting trustee in this case.
3. The Debtors' Chapter 13 Plan was confirmed on March 6, 2015.
4. The confirmed plan currently provides for monthly payments in the amount of \$800.00.
5. Debtors' have also agreed to enter into a wage order (Docket No. 68).
6. While Debtors' have been trying to keep current, to date, Debtor's employer has failed to enforce the wage order.
7. Debtor's counsel would like one more opportunity to serve their employer in order to avoid a Motion to Compel.

8. With this Motion, the Debtors seeks an order modifying the Plan to the extent there has been plan payment default it shall be deemed waived through December, 2016. The term of the modified Chapter 13 Plan will remain the same. Commencing the first day after confirmation of the modified plan; Debtors propose to pay \$800.00 per month to the Trustee via the previously agreed upon wage order. To the extent additional funds will be needed, an additional payment will be made in December 2019 to pay any additional balances. The plan base under this proposal remains unchanged. The dividend under this proposal remains unchanged. The liquidation value remains unchanged.

WHEREFORE, based upon the foregoing, it is respectfully requested that this Court issue an Order (1) permitting the Debtor to modify the Plan; and (2) granting such other and further relief as this Court deems just and proper.

Dated: December 15, 2016

TULLY RINCKEY PLLC

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